

TRUSTEES OF THE CHICAGO PAINTERS )  
AND DECORATORS PENSION FUND, et al. )

Plaintiffs,

V.

DAVID M. SCHEER, individually, and d/b/a  
SCHEER ENVIRONMENTAL SERVICES,

Defendant.

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No. 17 CV 9183

Judge Lee

Magistrate Judge Cox

## PLAINTIFFS' MOTION FOR CONTEMPT JUDGMENT

NOW COME the Plaintiffs, by and through their attorneys, and, in their Motion for Contempt Judgment, state as follows:

1. Plaintiffs filed this cause on December 21, 2017, seeking to compel Defendant's compliance with an ERISA fringe benefit contributions audit, and served Defendant on January 22, 2018.
2. Defendant failed to answer Plaintiffs' Complaint and, on February 13, 2018, Plaintiffs moved for an entry of default and an order commanding Defendant to submit to the sought audit, which this Court granted on February 21, 2018.
3. Plaintiffs served Defendant with this Court's audit order on March 14, 2018.
4. Defendant failed to comply with this Court's audit order, and, on April 10, 2018, Plaintiffs filed a rule to show cause for Defendant's non-compliance.
5. The Court granted Plaintiffs' motion on April 18, 2018, setting a show cause hearing on May 11, 2018, and Plaintiffs' served Defendant with the show cause order on April 30, 2018.

6. In response to the show cause order, Defendant produced some audit records and Plaintiffs withdrew their first show cause motion. However, the records proved to be limited and insufficient to complete the audit.

7. Defendant failed to respond to Plaintiffs' requests for additional records to complete the audit, leading Plaintiffs to file their second show cause motion on May 25, 2018. The Court granted the motion on June 4, 2018 and set the show cause hearing for June 14, 2018.

8. Immediately before the show cause hearing, Plaintiffs' counsel reached Defendant on his cell phone. Defendant denied knowledge of the hearing, so Plaintiffs' requested a continuance of the show cause hearing.

9. On July 11, 2018, Plaintiffs withdrew their second show cause motion based on Defendant's representation that he would cooperate with the auditor. However, contrary to his promise, Defendant failed to contact Plaintiffs' auditor.

10. On September 7, 2018, Plaintiffs filed their third show cause motion, which the Court granted on September 18, 2018.

11. This Court granted the third show cause motion and Plaintiffs served Defendant with the order by multiple methods, including by texting Defendant at the same telephone number that Plaintiffs' counsel previously reached him.

12. Defendant failed to appear at the show cause hearing on November 27, 2019, and this Court entered an order providing if Defendant still did not comply with the Court's order by February 21, 2019, the Court would assess a fine in the amount of \$100.00 per day until the Defendant complied with the order.

13. Defendant still has not complied with this Court's audit order.

14. Fourteen days have passed between February 21, 2019 and the date of this

motion, producing \$1,400.00 in fines.

WHEREFORE, Plaintiffs ask this Court to enter judgment in their favor and against Defendant in the amount of \$1,400.00.

Respectfully submitted,

**TRUSTEES OF THE CHICAGO PAINTERS  
AND DECORATORS PENSION FUND, et al.,**

By: /s/ Andrew S. Pigott  
One of their Attorneys

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